

Disciplinary Actions

REPORTED FOR SEPTEMBER

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of August 2002. This information was updated in August 2003 to ensure the accurate identification of firms expelled for failure to pay fines and/or costs in accordance with NASD Rule 8320.

Firms Fined, Individuals Sanctioned

C.B. Hill & Associates, Inc. (CRD #23786, Jacksonville, Florida) and Wise Alsop Skillman, III (CRD #1757886, Registered Principal, Jacksonville, Florida) submitted an Offer of Settlement in which the firm was censured and fined \$10,000, and Skillman was fined \$5,000 and suspended from association with any NASD member in any principal capacity for 10 business days. The fine must be paid before Skillman reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Skillman, failed to implement, or to implement timely, taping systems to record all telephone conversations between the firm's registered representative and clients or prospective clients at its branch offices. The findings also stated that the firm, acting through Skillman, failed to establish, maintain, and enforce supervisory procedures for the supervision of the firm's registered representatives telemarketing activities or to do so in a timely manner.

Skillman's suspension began February 19, 2002, and concluded at the close of business March 2, 2002. (NASD Case #C07010055)

Joseph Dillon & Company, Inc. (CRD #35220, Great Neck, New York) and Steven Richard Jaloza (CRD #1320831, Registered Principal, Oyster Bay, New York) submitted an Offer of Settlement in which they were censured and fined \$35,000, jointly and severally. Jaloza was also suspended from association with any NASD member in any principal capacity for two months. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they failed to comply with the provisions of the NASD Taping Rule in that they failed to implement a tape recording system for telephone calls and failed to establish, maintain, or enforce special written procedures for supervising telemarketing activities of the firm's registered representatives. The findings also stated that the firm and Jaloza failed to submit to NASD a quarterly written report concerning the firm's supervision of the telemarketing activities of its registered representatives.

Jaloza's suspension began July 2, 2001, and concluded September 1, 2001. (NASD Case #C10000172)

Legend Merchant Group, Inc. (CRD #5155, New York, New York) and Michael Davidson (CRD #2271320, Registered Principal, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000, jointly and severally, with Davidson. Davidson was also suspended from association with any NASD member as a financial and operations principal (FINOP) for 10 business days and required to requalify by exam as a FINOP within 90 days. If Davidson fails to requalify as a FINOP within 90 days, he will be suspended from acting in such capacity until he successfully completes the exam. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Davidson, failed to maintain the minimum required net capital while conducting a securities business. The findings also stated that the firm, acting through Davidson, incorrectly reported its net capital in its monthly Financial and Operational Combined Uniform Single (FOCUS) reports.

Davidson's suspension began September 3, 2002, and concluded at the close of business September 16, 2002. (NASD Case #C10020068)

Sierra Brokerage Services, Inc. (CRD #36573, Columbus, Ohio), Richard M. Geiger (CRD #873869, Registered Representative, Morton, Illinois), and Jeffrey Allen Richardson (CRD #736249, Registered Principal, Columbus, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which the firm and Richardson were censured and fined \$10,000, jointly and severally, and Geiger was fined \$10,000 and suspended from association with any NASD member in any capacity for 20 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Richardson, permitted Geiger and another individual to function in a capacity requiring registration as an equity trader when they were not registered in that capacity.

Geiger's suspension began August 19, 2002, and will conclude at the close of business September 16, 2002. (NASD Case #C8B020014)

William Scott & Co., LLC (CRD #14979, Union, New Jersey), Joseph William Glodek, Sr. (CRD #223163, Registered Principal, Somerset, New Jersey), and Joseph Scott Glodek, Jr. (CRD #2024287, Registered Principal, Roseland, New Jersey) submitted an Offer of Settlement in which the firm was censured and fined \$10,000. The firm also will not be permitted to underwrite any initial public offerings (IPOS) of any equity securities for any "Developmental Stage Company" as defined in Regulation S-X, Rule 1-02(h); make a market in any publicly traded security; and/or offer for sale to public customers any securities of the firm or its holding company for three years. The firm will also hire, within 60 days, an independent consultant to review and revise its supervisory and compliance procedures and

systems, and provide a copy of the consultant's recommendations to NASD's Department of Enforcement not later than six months after the consultant's retention by the firm. The Glodeks were individually fined \$10,000, required to requalify as general securities principals before again acting in that capacity with any NASD member, and required to pay \$82,301.92, plus interest, in restitution to public customers, jointly and severally. Glodek, Sr. was suspended from association with any NASD member in any capacity for six months. Glodek, Jr. was suspended from association with any NASD member in any capacity for 45 days, and suspended from association with any NASD member in any principal capacity for one year.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through associated persons, directly or indirectly, by the use of any means or instrumentalities of interstate commerce or the mails, or of any facility of any national securities exchange employed artifices, devices, or schemes to defraud; made untrue statements of material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; engaged in acts, practices, or courses of business that operated or would operate as a fraud or deceit; effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices or contrivances; and failed to observe high standards of commercial honor and just and equitable principles of trade. The firm, acting through the Glodeks and others, engaged in acts and practices in connection with the accounts of public customers including, but not limited to, the use of high-pressure telephone sales pitches to sell low-priced, speculative securities; the use of baseless price and performance predictions; the use of material, false, misleading, and inaccurate representations; the failure to disclose material information in connection with the solicitation of purchases in certain securities; the effecting of unauthorized transactions in the accounts of public customers; and the failure or refusal to sell securities from the accounts of customers despite customer instructions to do so.

The findings also stated that the firm, acting through the Glodeks, failed to implement, maintain, and enforce effective supervisory systems and procedures that would have enabled the firm to comply with federal securities laws and NASD rules regarding underwriting and retail brokerage activities and the qualifications of, and registration process for, associated persons. In addition, NASD found that the firm, acting through the Glodeks, knew, or should have known, of "red flags" indicating sales-practice violations, including the firm's receipt of numerous customer complaints alleging material misrepresentations, its failure to disclose material information, its effecting of unauthorized transactions, and its failure to take sufficient supervisory steps in response to the "red flags." NASD also found that the firm failed to establish, maintain, and enforce

written procedures that would have enabled the firm to prevent and detect the conduct alleged in the customer complaints.

Glodek, Sr.'s suspension will begin October 18, 2002, and will conclude at the close of business April 17, 2003. Glodek, Jr.'s suspension in any capacity began September 3, 2002, and will conclude at the close of business October 17, 2002. Glodek, Jr.'s suspension in any principal capacity will begin October 18, 2002, and will conclude at the close of business October 17, 2003. (NASD Case #C10010004)

Firms and Individuals Fined

Cantella & Co., Inc. (CRD #13905, Boston, Massachusetts) and James Michael Freeman (CRD #1501323, Registered Principal, Newburyport, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Freeman, failed to establish and maintain a system to supervise the activities of each registered representative and associated person that was reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. (NASD Case #C11020029)

K.W. Chambers & Co., (CRD #1432, Clayton, Missouri) and Robert Lewis Chambers (CRD #1231649, Registered Principal, Clayton, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$12,500, jointly and severally. The firm is required to revise its written supervisory procedures with respect to the Regulatory Element of NASD's Continuing Education requirements. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Chambers, permitted registered representatives to perform duties as registered persons while their registration status was inactive due to their failure to timely complete the Regulatory Element of NASD's Continuing Education requirements. The findings also stated that the firm, acting through Chambers, failed to establish, maintain, and enforce written supervisory procedures designed to fulfill the firm's obligation to comply with the Regulatory Element of NASD's Continuing Education requirements. (NASD Case #C04020021)

Terra Nova Trading, L.L.C. (CRD #37761, Chicago, Illinois) and Gerard Dean Putnam, Jr. (CRD #1033935, Registered Principal, Kenilworth, Illinois) submitted an Offer of Settlement in which the firm was censured and fined \$25,000 and Putnam was censured and fined \$10,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in connection with its advertisement on the firm's Web site, the firm made exaggerated, unwarranted, and false statements and

claims to members of the public and omitted to state material facts. According to the findings, the advertisement omitted any disclosure of the risks inherent in day trading, including the risk of loss of funds, risks that trades would not be executed, risks associated with volatile stocks, risks that customers would pay high commissions due to the large volume of trades, the risk that customers might not have sufficient market knowledge or understanding of how the member firm's systems worked, and risks associated with margin trading or short selling while making misrepresentations regarding day trading. The findings also stated that Putnam failed to supervise the firm's branch office reasonably to detect and prevent the above violations. (NASD Case #C01000037)

Firms Fined

Anglo-American Investor Services Corp. (CRD #14278, Charlottesville, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$7,000, jointly and severally, and fined an additional \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed officers of the firm to engage in a securities business while their registrations were inactive for failing to comply with the Regulatory Element of NASD's Continuing Education requirements. The findings also stated that the firm, acting through an individual, failed to adopt, implement, and enforce adequate written supervisory procedures reasonably designed to ensure compliance with NASD Membership and Registration Rule 1120. (NASD Case #C07020064)

BNY Clearing Services, LLC (CRD #15879, Milwaukee, Wisconsin) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it reported to the Order Audit Trail SystemSM (OATSSM) execution reports that contained inaccurate, incomplete, or improperly formatted data. The findings also stated that the firm, for certain orders received from its correspondents, failed to report all applicable order information required to be recorded under NASD Marketplace Rule 6954 to OATS. (NASD Case #CMS020135)

Consultiva Securities, Inc. (CRD #103818, Hato Rey, Puerto Rico) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$5,000, jointly and severally, and fined \$7,500 individually. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to ensure compliance with NASD Rule 1120. The findings also stated that the firm allowed an officer of the firm

to engage in a securities business while her registrations were inactive after failing to complete the Regulatory Element of NASD's Continuing Education requirements. In addition, NASD found that the firm failed to file an annual audited report within the time period prescribed by the Securities and Exchange Commission (SEC) Act Rule 17a-5. (**NASD Case #C07020063**)

EarlyBirdCapital, Inc. (CRD #28629, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$19,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted individuals to engage in activities that required a general securities principal registration when they did not hold such registration. The findings stated that the firm used a bank account owned by an affiliated broker/dealer to hold investors' funds in connection with a private placement of securities. NASD also found that the firm failed to establish a special reserve account in connection with a private placement of securities, failed to make three weekly reserve calculations, and failed to inform the SEC and NASD that it had not made required deposits to the reserve account on three occasions. In addition, the findings stated that the firm received and held customer funds in connection with a private placement in contravention of its membership agreement, and received checks from investors in connection with the private placement but failed to establish and maintain a checks-received-and-delivered blotter. Moreover, NASD found that the firm permitted an individual to act in a registered capacity when his registration status was inactive due to his failure to comply with the Regulatory Element of NASD's Continuing Education requirements. (**NASD Case #C10020070**)

Gerard Klauer Mattison & Co., Inc. (CRD #16686, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that as a registered market maker in securities listed on NASDAQ and in other securities traded in the over-the-counter (OTC) market, it failed to execute the orders in an amount up to its published quotation size upon presentment and thereby failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning the firm quote rules. (**NASD Case #CMS020128**)

Glenn Michael Financial, Inc. (CRD #37912, Melville, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$13,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report to the Automated Confirmation Transaction ServiceSM (ACTSM) the correct symbol indicating whether it executed

transactions in eligible securities in a principal, riskless principal, or agency capacity. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning trade reporting. (**NASD Case #CLI020004**)

ICapital Markets LLC (CRD #5209, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it entered a priced order into an electronic communication network (ECN) that was displayed in The NASDAQ Stock Market. NASD found that the firm caused a locked/crossed market condition prior to the market opening by entering a priced order into an ECN, that, in turn, displayed the order by entering a bid (ask) quotation that locked/crossed another market maker's quotations. The findings stated that the firm did not immediately thereafter send through SelectNet[®] to the market maker(s) whose quote(s) were locked or crossed a Trade-or-Move message(s) that was at the receiving market maker's quoted price, and whose aggregate size was at least an amount equal to the size of the agency order the firm entered into the ECN. (**NASD Case #CMS020132**)

Keane Securities Co., Inc. (CRD #8452, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in NASDAQ National Market[®] (NNM[®]) and SmallCapSM securities, and failed to designate through ACT such last-sale reports as late. In addition, NASD found that the firm failed to report the time of execution through ACT in late, last-sale reports of transactions in NNM securities. The findings also stated that the firm, as a registered market maker in the securities, failed to execute orders upon presentment and thereby failed to honor its published quotation. NASD also determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning firm quotations. (**NASD Case #CMS020127**)

Needham & Company, Inc. (CRD #16360, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$80,000, and required to undertake to retain an independent consultant to review the firm's policies, practices, and procedures relating to the Rule. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in connection with market making activity in a stock, the firm traded ahead of its research report. The findings also stated that the firm failed to establish and maintain a supervisory system and written supervisory procedures

reasonably designed to achieve compliance with Interpretation IM-2110-4 that prohibits member firms from purposefully trading ahead of research reports. (NASD Case #CMS020131)

One Financial Network, LLC (CRD #47966, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, it was a party to a locked or crossed market condition prior to the market opening, received a Trade-or-Move message in each instance through SelectNet, and within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. (NASD Case #CMS020133)

Robertson Stephens, Inc. (CRD #41271, San Francisco, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$72,500, required to pay \$37,294.55, plus interest, in restitution to public customers, and required to revise its written supervisory procedures concerning obtaining and maintaining a record of dealers contacted and quotations received in order to comply with best execution and recordkeeping obligations. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker, it failed to execute orders upon presentation and thereby failed to honor its published quotation. In addition, NASD found that the firm, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market participants whose quotations would be locked or crossed, entered bid or asked quotations in The NASDAQ Stock Market, which caused a locked or crossed condition to occur. The findings also stated that the firm failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions and failed to designate through ACT such last-sale reports as late. NASD also determined that the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions, failed to execute an order fully and promptly, and failed to contact and obtain quotations from dealers to determine the best inter-dealer market for the subject security. Furthermore, the findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning obtaining and maintaining a record of dealers contacted and quotations received in order to comply with best execution and recordkeeping obligations. (NASD Case #CMS020119)

Ryan, Beck & Co., LLC (CRD #3248, Livingston, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which

the firm was censured and fined \$31,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report OTC transactions in high-yield securities that are not otherwise reported during the operating hours of Fixed Income Pricing SystemSM (FIPSSM) or that are not executed through FIPS. NASD also found that the firm failed to accurately prepare order memoranda ("order tickets"), in that the firm failed to memorialize the time of entry and/or the correct time of execution of order tickets for equity and high-yield fixed income securities transactions, and failed to maintain order tickets for transactions in high-yield fixed income securities. The findings also stated that the firm was the underwriter for a firm commitment underwriting in the IPO of an issuer, and, in connection with the IPO, the firm received payments for the purchase of common stock from public customers prior to the effective date of the Offering. (NASD Case #C8A020046)

Spear, Leeds & Kellogg, L.P. (CRD #3466, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$156,000, and required to revise its written supervisory procedures within 30 days to address deficiencies. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in NASDAQ securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. NASD found that the firm, as a non-market maker, executed short-sale transactions on a riskless principal basis, and failed to make an affirmative determination prior to executing such transactions.

The findings stated that the firm, as a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered bid or asked quotations in The NASDAQ Stock Market that caused a locked or crossed market condition to occur in each instance, and caused a locked or crossed market condition prior to the market opening by entering a bid (ask) quotation that locked or crossed another market maker's quotations without immediately thereafter sending through SelectNet, to the market maker(s) whose quotes it locked or crossed, a Trade-or-Move message that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. In addition, NASD found that the firm received an order to buy or sell through SelectNet for a normal unit of trading greater than its published quotation size at the time of receipt of such order; executed a transaction in an amount of shares less than the size of the order; and, after such execution, failed to immediately display a revised quotation at a price that was inferior to its

previous published quotation. Furthermore, the findings stated that the firm failed to execute the orders upon presentment and thereby failed to honor its published quotation and effected transactions in securities listed on The NASDAQ Stock Market while a trading halt was in effect with respect to such securities. NASD also found that the firm was a party to a locked or crossed market condition prior to the market opening and received a Trade-or-Move message in each instance through SelectNet, and, within 30 seconds of receiving such message, failed to fill the incoming Trade-or-Move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked or uncrossed that market.

In addition, NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning the designation of supervisory personnel, ACT compliance, the duty of best execution, limit order protection, order handling rules, one percent rule, registration of traders and supervisors, transaction reporting, Small Order Execution System (SOES), record keeping, locked/crossed markets, anti-competitive practices, information barriers, short sales, firm quote compliance, and the obligation to regularly and rigorously assess the quality of competing markets. (NASD Case #CMS020124)

Spencer Edwards, Inc. (CRD #22067, Englewood, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in OTC Equity securities. The findings also stated that the firm failed to designate through ACT such last-sale reports as late. (NASD Case #CMS020120)

Terra Nova Trading, L.L.C. (CRD #37761, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it published and distributed advertisements and pieces of sales literature that were exaggerated, unwarranted, or misleading. The findings also stated that the firm's advertising and sales literature mischaracterized an SEC study and misleadingly suggested that public customers who executed trades through the firm would receive better prices than through most other market participants. (NASD Case #CAF01022)

The Key Group Inc. (CRD #42373, Ramsey, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$7,000, fined \$4,180, jointly and severally, and required to pay \$3,320, plus interest, in restitution to public customers. Without admitting or denying the allega-

tions, the firm consented to the described sanctions and to the entry of findings that it effected transactions for public customers of various municipal bonds on a principal basis at prices that were not fair and reasonable without taking into consideration all relevant factors. NASD also found that the firm failed to establish, maintain, and enforce written supervisory procedures reasonably designed to ensure compliance with the Municipal Securities Rulemaking Board (MSRB) Rule concerning municipal markups. The findings also stated that the firm engaged in activity that was not provided for in the firm's membership agreement and that constituted a material change in the firm's business operations. (NASD Case #C9B020051)

Thomas Weisel Partners, LLC (CRD #46237, San Francisco, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$45,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders upon presentment and thereby failed to honor its published quotation. NASD found that the firm caused a locked or crossed market condition prior to the market opening by entering a bid (ask) quotation that locked or crossed another market maker's quotations without immediately thereafter sending through SelectNet, to the market maker(s) whose quote(s) it locked or crossed, a Trade-or-Move message(s) that was at the receiving market maker's quoted price and whose aggregate size was at least 5000 shares. The findings also stated that the firm was a party to a locked or crossed market condition prior to the market opening, received a Trade-or-Move message in each instance through SelectNet, and, within 30 seconds of receiving such messages, failed to fill the incoming Trade-or-Move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked or uncrossed that market. (NASD Case #CMS020129)

Individuals Barred or Suspended

Ellen Marie Aleshire (CRD #2411031, Registered Representative, Antioch, Illinois) was fined \$15,000, suspended from association with any NASD member in all capacities for 30 days, and ordered to requalify as a general securities representative and a general securities principal. The sanctions were based on findings that Aleshire disseminated to members of the public memoranda and form letters soliciting the purchase of securities that were misleading.

Aleshire's suspension began August 5, 2002, and concluded at the close of business September 3, 2002. (NASD Case #C8A010060)

Emad Amin Alwan (CRD #2582497, Registered Representative, Arnold, Maryland) submitted a Letter of

Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to disgorge \$106,392 in commissions in partial restitution to public customers. Alwan must pay the restitution before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Alwan consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm. (**NASD Case #C9A020028**)

Manuel Martin Bello (CRD #1557140, Registered Principal, Kinnelon, New Jersey) was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) imposed the sanction following the review of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that Bello failed to produce bank records in response to NASD requests for documents, and failed to produce certain bank account statements in a timely manner in response to NASD requests for documents. (**NASD Case #CAF000030**)

Robert Elmer Bowman (CRD #2837329, Registered Representative, Naples, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 12 months, and ordered to disgorge \$19,500 in commissions received to public customers in partial restitution. Bowman must pay the fine and disgorgement immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bowman consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm.

Bowman's suspension began September 3, 2002, and will conclude at the close of business September 2, 2003. (**NASD Case #C07020062**)

Mario Andretti Chotoosingh (CRD #4315338, Registered Representative, Freeport, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. Chotoosingh must pay the fine immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Chotoosingh consented to the described sanctions and to the entry of findings that he failed to disclose material facts on a Uniform Application for Securities Industry Registration or Transfer Form (Form U-4).

Chotoosingh's suspension began August 19, 2002, and will conclude at the close of business October 17, 2002. (**NASD Case #C10020065**)

James David Clifford (CRD #1335296, Registered Principal, Sayville, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$17,500, suspended from association with any NASD member in any capacity for six months, and required to requalify by exam in any capacity for which registration is sought. In light of the financial status of Clifford, a fine of \$17,500 has been imposed. The fine must be paid before Clifford reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Clifford consented to the described sanctions and to the entry of findings that he failed to amend, or cause to amend, the Forms U-4 for registered representatives after receiving information regarding customer complaints filed against the registered representatives of his member firm. In addition, Clifford failed to report to NASD customer complaints that were received by his member firm. The findings also stated that, on behalf of his member firm, Clifford failed to establish, maintain, and enforce adequate written supervisory procedures and a supervisory system reasonably designed to prevent and detect unauthorized trading by his member firm's registered representatives.

Clifford's suspension began August 19, 2002, and will conclude at the close of business February 18, 2003. (**NASD Case #C3A020033**)

Riley Chad Cochran (CRD #2960214, Associated Person, Arlington, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Cochran reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Cochran consented to the described sanctions and to the entry of findings that he caused the signature of a public customer to be applied on an application and supporting documents for a life insurance policy without the customer's knowledge or consent and submitted them to an insurance company for processing.

Cochran's suspension began September 3, 2002 and will conclude on March 2, 2003. (**NASD Case #C06020006**)

Gerald Mason Crossman (CRD #2769096, Registered Representative, Bakersfield, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 120 days. Without admitting or denying the allegations, Mason consented to the described sanctions and to the entry of findings that he signed the name of a public customer to a letter of authorization relating to the transfer of an account, without the customer's knowledge or consent, and submitted it to his member firm in order to expedite the account transfer.

Crossman's suspension began August 19, 2002, and will conclude at the close of business December 16, 2002. (NASD Case #C02020037)

Bari Lee Courts (CRD #2202457, Registered Representative, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,165, including disgorgement of \$7,665 in commissions, and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Courts reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Courts consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed to provide his member firm with prompt written notice of his activities.

Courts' suspension began August 19, 2002, and will conclude at the close of business September 17, 2002. (NASD Case #C8B020015)

Delesley Dessasau (CRD #4188874, Associated Person, East Orange, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Dessasau willfully filed a false Form U-4. Dessasau also failed to respond to NASD requests for information. (NASD Case #C9B020015)

Gregg Alan Emde (CRD #2309776, Registered Representative, Ballwin, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Emde consented to the described sanction and to the entry of findings that he deposited checks drawn from public customers' securities and checking accounts made payable to Emde for investment purposes into his own personal bank account without the knowledge or consent of the customer. (NASD Case #C04020027)

Eric Anthony Eunis (CRD #2389961, Registered Representative, East Greenwich, Rhode Island) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any member firm in any capacity for three months, required to disgorge \$18,100 in commissions received, and required to pay partial restitution, plus interest, to public customers. The fine and restitution must be paid before Eunis reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Eunis consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Eunis' suspension began September 3, 2002, and will conclude at the close December 2, 2002. (NASD Case #C11020030)

George Mallory Freeman, Jr. (CRD #835077, Registered Representative, Longwood, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Freeman consented to the described sanction and to the entry of findings that he engaged in private securities transactions, for compensation, without prior written authorization from his member firms to participate in these transactions. (NASD Case #C07020060)

John Patrick Goldsworthy (CRD #730533, Registered Representative, Metairie, Louisiana) was barred from association with any NASD member in any capacity. The SEC affirmed the sanction following appeal of an October 2000 NAC decision. The sanction was based on findings that Goldsworthy engaged in private securities transactions without prior written notice to, and approval from, his member firm. (NASD Case #C05940077)

Patricia Bisch Green (CRD #1320375, Registered Principal, Houston, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$15,000 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Green consented to the described sanctions and to the entry of findings that she effected, or caused to be effected, transactions totaling \$237,679 in the securities account of a public customer, and exercised discretionary power in the account without prior written authorization from the customer or acceptance in writing by her member firm of the account as discretionary. The findings also stated that Green failed to follow a customer's instructions, which resulted in losses in excess of \$300,000 to the customer.

Green's suspension began September 3, 2002 and will conclude at the close of business September 23, 2002. (NASD Case #C06020007)

Arthur Edward Gurr (CRD #232190, Registered Principal, Woodinville, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gurr consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm. The findings also stated that Gurr failed to respond to NASD requests for information. (NASD Case #C3B020012)

Forrest G. Harris (CRD #4219457, Registered Representative, Charlotte, North Carolina) was fined \$7,500 and suspended from association with any NASD member in any

capacity for two months. The sanctions are based on findings that Harris submitted an inaccurate Form U-4 to NASD.

Harris' suspension began August 5, 2002, and will conclude at the close of business October 4, 2002. (NASD Case #C07010084)

David Vernon Jackson (CRD #870389, Registered Representative, Marina del Rey, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$30,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before any application for reentry into the securities industry will be considered. Without admitting or denying the allegations, Jackson consented to the described sanctions and to the entry of findings that he authorized and gave publicity to investment research reports recommending the purchase of securities and failed to disclose fully on the reports the nature, terms, and amounts of compensation he received from the reports.

Jackson's suspension began February 19, 2002, and will conclude at the close of business February 18, 2004. (NASD Case #CMS020015)

Hunter Hobson Johnson, III (CRD #2941305, Registered Representative, Montgomery, Alabama) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Johnson consented to the described sanction and to the entry of findings that he exercised discretionary transactions in the account of a public customer without having obtained prior written authorization from the customer and prior written acceptance of the account as discretionary by his member firm.

Johnson's suspension began August 19, 2002, and will conclude at the close of business September 30, 2002. (NASD Case #C05020035)

Matthew Jun Kang (CRD #2855301, Registered Representative, Fort Lee, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kang consented to the described sanction and to the entry of findings that at various time periods, without authorization, he released hold designations that had been placed on collateral that his customers had pledged in connection with loans each customer had obtained through a bank. The findings stated that by improperly releasing the hold designations, Kang permitted his customers to liquidate their collateral, thereby leaving the loans unsecured. (NASD Case #C9B020049)

John F. Keegan (CRD #2125338, Registered Principal, Duluth, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$30,000, suspended from

association with any NASD member in any capacity for 15 days, and suspended from association with any NASD member in a principal or supervisory capacity for 80 days. Keegan must pay the fine immediately upon reassociation with any NASD member following the suspensions or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Keegan consented to the entry of findings that, as his member firm's chief compliance officer, he failed to obtain supervisory review and approval of advertising and sales literature (ASL), and failed to file pieces of ASL with NASD's Advertising Regulation Department, as required, before they were distributed to the public. The findings also stated that Keegan failed to adequately supervise his member firm's advertising activities, including the use of ASL that omitted material facts, and the use of ASL containing exaggerations and unwarranted and misleading statements. NASD found that Keegan was responsible for his member firm's failure to develop systems and procedures, including written supervisory procedures, reasonably designed to achieve compliance with NASD's advertising regulations regarding review of ASL. Keegan was also found responsible for his firm's failure to establish procedures reasonably designed to achieve compliance with NASD rules regarding unlicensed persons illegally discussing or recommending securities products to potential customers.

Keegan's suspension in any capacity will begin December 13, 2002, and will conclude December 27, 2002. Keegan's suspension in any principal or supervisory capacity will begin December 30, 2002, and will conclude at the close of business March 19, 2003. (NASD Case #CAF020025)

Charles Robert Kolesar (CRD #1381404, Registered Representative, Phoenix, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$45,318, including disgorgement of \$40,318 of financial benefits received, and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Kolesar reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kolesar consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing prior written notification to, or obtaining written approval from, his member firm.

Kolesar's suspension began August 19, 2002, and will conclude on May 18, 2003. (NASD Case #C3A020035)

Igor Krishtul (CRD #2011198, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement in which he was fined \$27,500 and suspended from association with any NASD member in any capacity for two years. Krishtul must pay the fine immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or

denying the allegations, Krishtul consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing prompt written notice to his member firm. The findings also stated that Krishtul provided false, misleading, and/or evasive testimony during an on-the-record interview with NASD.

Krishtul's suspension began August 19, 2002, and will conclude at the close of business August 18, 2004. (**NASD Case #C10020017**)

Michael Philip Kummerer (CRD #4059287, Registered Representative, Naperville, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Kummerer reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kummerer consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on a Form U-4.

Kummerer's suspension began August 19, 2002, and will conclude at the close of business February 18, 2003. (**NASD Case #C8A020047**)

Rodney Louis (CRD #2842334, Registered Representative, Wellington, Florida) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Louis consented to the described sanction and to the entry of findings that he engaged in business activities outside the scope of his employment with his member firm, for compensation, and failed to provide written notification to his member firm. The findings also stated that Louis failed to respond to NASD requests for information. (**NASD Case #C07020054**)

Lewis Evan Miller (CRD #2310740, Registered Representative, Cedarhurst, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000, suspended from association with any NASD member in any capacity for three months, and required to pay \$4,662.50, plus interest, in restitution to member firms. Without admitting or denying the allegations, Miller consented to the described sanctions and to the entry of findings that he knowingly and intentionally entered priced limit orders in NASDAQ securities into Instinet ("INCA") at prices that he knew would improve, and intended to improve, the National Best Bid or Offer ("NBBO") in such securities, in that the full price and size of such orders would be reflected in the public quotation system as the best price and size at which a market participant was willing to buy or sell such securities. NASD also found that after entering such orders into INCA, Miller knowingly and intentionally entered orders to buy or sell shares of such securities in his trading account at his member firm because he knew, and intended,

that they would be routed to market makers whose automated execution systems were programmed to buy or sell, and did buy and sell, such securities on an automated basis at prices equal to the NBBO and in an amount greater than the NBBO. The findings stated that, by knowingly and intentionally engaging in this course of conduct, Miller bought (sold) shares of these securities at prices that were lower (higher) than he would otherwise have been able to buy (sell) shares of these securities immediately after Miller received the executions of the orders that he had entered in his trading account; intentionally and knowingly canceled certain priced limit orders that he entered into INCA; and obtained a financial benefit of approximately \$4,662.50.

Miller's suspension began September 3, 2002, and will conclude at the close of business December 2, 2002. (**NASD Case #CMS020134**)

Michael Miola (CRD #1255741, Registered Representative, Upper Brookville, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000, including disgorgement of \$4,565.43, and suspended from association with any NASD member in any capacity for 30 days. Miola must pay the fine before reassociating with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Miola consented to the described sanctions and to the entry of findings that he submitted advertisements to NASD that were materially misleading and failed to disclose the risks inherent in investing in the technology and sciences area; failed to disclose that a fund was a non-diversified fund; and failed to disclose that the fund had an undue concentration in a limited number of securities. The findings also stated that Miola failed to obtain approval from a registered principal of the firm prior to submitting the ads to NASD. In addition, the findings stated that Miola acted as a general securities principal and general securities representative without proper registration.

Miola's suspension began March 4, 2002, and concluded at the close of business April 2, 2002. (**NASD Case #CAF020002**)

Jamie Mireles (CRD #4385949, Associated Person, Merrillville, Indiana) was barred from association with any NASD member in any capacity. The sanction was based on findings that Mireles willfully filed a false Form U-4 and failed to respond to NASD requests for information. (**NASD Case #C8A020004**)

Joanne Crenshaw Mohrman (CRD #1102226, Registered Representative, Jackson, Mississippi) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Mohrman consented to the described sanction and to the entry of findings that she

received \$15,344.75 in checks from an insurance company, which were sent in error for the benefit of her deceased mother; failed and neglected to return the checks to the insurance company; and, instead, converted the funds to her own use and benefit, without the knowledge or consent of the insurance company. The findings also stated that Mohrman forged the signature of her deceased mother to checks issued by an insurance company and to a letter requesting the insurance company to replace a lost check. (**NASD Case #C05020039**)

Michael John Mussay (CRD #2147562, Registered Principal, Grayslake, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Mussay consented to the described sanctions and to the entry of findings that under the mistaken belief that the customer had given consent, affixed the signature of a public customer to a mutual fund Change of Dealer Authorization Form without the knowledge or consent of the customer.

Mussay's suspension began August 15, 2002, and concluded at the close of business August 28, 2002. (**NASD Case #C8A020048**)

Mark Bryon Neumeier (CRD #2181967, Registered Representative, Springfield, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Neumeier consented to the described sanction and to the entry of findings that he intentionally or recklessly employed devices to defraud a customer, and engaged in a course of business that operated as a fraud or deceit upon a customer by making untrue statements of material facts and/or omitting to state material facts necessary to make the statements made, in light of the circumstances in which they were made, not misleading, in connection with the sale of mutual funds shares held in accounts with his member firm, which Neumeier sold through redemptions on behalf of the customer. The findings stated that Neumeier recommended the redemption by a public customer of mutual fund shares held in securities accounts with his member firm and the subsequent issuance of personal checks totaling \$84,615 by the customer payable to Neumeier for investment purposes, when in fact, Neumeier failed to invest the funds for the customer's benefit, converted \$20,000 for his own use and benefit, and applied \$64,615 to other securities accounts with his member firm in which the customer had no beneficial interest. The findings also stated that Neumeier failed to respond to NASD requests for information. (**NASD Case #C04020026**)

Hao D. Nguyen (CRD #2458736, Registered Representative, Houston, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from

association with any NASD member in any capacity for 60 days. Without admitting or denying the allegations, Nguyen consented to the described sanctions and to the entry of findings that he paid advances on escrowed commissions to unregistered persons and encouraged unlicensed persons to engage in conduct requiring registration.

Nguyen's suspension began August 5, 2002, and will conclude at the close of business October 3, 2002. (**NASD Case #CAF020021**)

Nelson Daniel Polite, Jr. (CRD #2698001, Registered Principal, Orlando, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Polite failed to respond to NASD requests for information. The findings also stated that Polite entered into a written agreement with a public customer to trade his account and share the profits earned in the account without prior written authorization from his member firm to share in the profits. (**NASD Case #C07020021**)

David Vyacheslav Polushkin (CRD #2557710, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for three months. In light of the financial status of Polushkin, no monetary sanctions have been imposed. Without admitting or denying the allegations, Polushkin consented to the described sanction and to the entry of findings that he effected purchase transactions in the joint account of public customers without their prior knowledge, authorization, or consent.

Polushkin's suspension began August 5, 2002, and will conclude at the close of business November 4, 2002. (**NASD Case #C10020018**)

Robert Louis Redding (CRD #1114706, Registered Representative, Reno, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$116,687 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Redding reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Redding consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving written approval from, his member firm.

Redding's suspension began August 19, 2002, and will conclude at the close of business February 18, 2003. (**NASD Case #C02020038**)

Sean Michael Sanborn (CRD #2900360, Registered Representative, Staten Island, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined

\$2,500 and suspended from association with any NASD member in any capacity for nine months. Sanborn must pay the fine immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sanborn consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U-4.

Sanborn's suspension began August 19, 2002, and will conclude on May 18, 2003. (NASD Case #C10020051)

Joseph Anthony Sanchez (CRD #2393619, Registered Representative, Tampa, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Sanchez failed to respond to NASD requests for documents and information. Sanchez also executed unauthorized transactions in a public customer's account. (NASD Case #C9B020018)

Terry Michael Skocher (CRD #1453144, Registered Representative, Tarpon Springs, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 business days. The fine must be paid before Skocher reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Skocher consented to the described sanctions and to the entry of findings that he failed to properly qualify and/or register with NASD in the appropriate capacity prior to engaging in a securities business and/or functioning as a representative with his member firm.

Skocher's suspension began August 19, 2002, and concluded at the close of business September 9, 2002. (NASD Case #C04020024)

David Phillip Scheyer (CRD #1362617, Registered Representative, Cincinnati, Ohio) was barred from association with any NASD member in any capacity. The sanction was based on findings that Scheyer received at least \$8,459.01 from public customers representing payments for insurance premiums, failed to apply the premium payments to the applicable policies, and failed to use the funds to benefit the insurance customers in any manner. The findings also stated that Scheyer failed to respond to NASD requests for information. (NASD Case #C8B020001)

Todd Alan Shermer (CRD #2921738, Registered Representative, Tarpon Springs, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$37,402.37, including disgorgement of \$32,402.37 in earned commissions, and suspended from association with any NASD member in any capacity for nine months. Shermer must pay the fine immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the

allegations, Shermer consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed to provide prompt written notice to his member firm.

Shermer's suspension began August 5, 2002, and will conclude on May 4, 2003. (NASD Case #C07020059)

Henry Shin a/k/a Yoo Ho (CRD #3210557, Registered Representative, Levittown, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Shin effected unauthorized transactions in the account of a public customer and misrepresented to the customer that he would reimburse the customer for any losses resulting from a transaction. The findings also stated that Shin engaged in the solicitation and purchase or sale of call and put contracts for which NASD did not register him to do. NASD also found that Shin failed to respond to NASD requests for information. (NASD Case #C10020027)

Frederick Joseph Smilek (CRD #3133710, Associated Person, Tuckahoe, New York) submitted an Offer of Settlement in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for four months. Smilek must pay the fine immediately upon reassociation with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Smilek consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U-4.

Smilek's suspension began August 19, 2002, and will conclude at the close of business December 18, 2002. (NASD Case #C10010145)

Melissa Jane Thomas (CRD #4410492, Registered Representative, Newington, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Thomas consented to the described sanction and to the entry of findings that she deposited a public customer's \$150 check into her personal checking account and converted those funds for her own use and benefit without the customer's knowledge or consent. (NASD Case #C11020031)

Rory Lyle Thompson (CRD #4019820, Registered Representative, Conway, Arkansas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for four months. The fine must be paid before Thompson reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Thompson consented to the described sanctions and to the entry of findings that he signed the name of a public customer

to "Change of Agent of Record & Broker/Dealer" forms for the purpose of changing the broker/dealer of record on variable annuity contracts owned by the customer. The findings also stated that Thompson failed to respond timely to NASD requests for information.

Thompson's suspension began August 19, 2002, and will conclude at the close of business December 18, 2002. (NASD Case #C05020037)

Christopher Stephen Venetis (CRD #2930555, Registered Representative, Youngsville, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Venetis consented to the described sanction and to the entry of findings that he executed an unauthorized sale of shares in the account of a public customer in the amount of \$6,206.18, without the customer's knowledge or consent. (NASD Case #C05020038)

Decisions Issued

The following decisions have been issued by the District Business Conduct Committee or the Office of Hearings and has been appealed to or called for review by the NAC as of August 2, 2002. The findings and sanctions imposed in the decisions may be increased, decreased, modified, or reversed by the NAC. Initial decisions for which time for appeal has not yet expired will be reported in the next *Notices to Members*.

David Mark Hopkins (CRD #2176588, Registered Representative, Houston, Texas) was fined \$19,100 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Hopkins reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. The sanction was based on findings that Hopkins participated in private securities transactions without providing prior written notice to, or receiving written permission from, his member firm.

Hopkins has appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C3A020010)

Key West Securities, Inc. (CRD #38305, Cardiff by the Sea, California) and Amr "Tony" Elgindy (CRD #1824634, Registered Principal, Colleyville, Texas) were each fined \$3,000. The firm was suspended from NASD membership for one year and Elgindy was suspended from association with any NASD member in any capacity for one year. The sanctions were based on findings that the firm, acting through Elgindy, made a series of high bids without intending to honor them. Furthermore, the firm, acting through Elgindy, issued recommendations that failed to disclose that the firm was a market maker in the stock.

The firm and Elgindy have appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #CMS000015)

Mark Horace Love (CRD #1268245, Registered Representative, Tucson, Arizona) was fined \$25,000 and suspended from association with any NASD member in any capacity for 90 days. The sanction was based on findings that Love participated in private securities transactions without providing prior written notice to his member firm.

Love has appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C3A010009)

Timothy John Ryan (CRD #1245453, Registered Principal, Kingston, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Ryan effected four unauthorized transactions in two institutional customer accounts without their approval or consent. The findings also stated that Ryan opened an account for one of the two institutional customers at his member firm without the knowledge or consent of the managing director of the advisor to the institutional customer.

Ryan has appealed this decision to the NAC, and the sanction is not in effect pending consideration of the appeal. (NASD Case #CAF010013)

John Valentino Tito (CRD #3215150, Associated Person, Brooklyn, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Tito provided a false response on his Form U-4. The findings also stated that Tito failed to respond to NASD requests for information.

Tito has appealed this decision to the NAC, and the sanction is not in effect pending consideration of the appeal. (NASD Case #C10010146)

Complaints Filed

The following complaints were issued by NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Jeffrey Clyde Adams (CRD #2833013, Registered Representative, Lake Mary, Florida) was named as a respondent in an NASD complaint alleging that he effected the purchase of securities in the accounts of public customers without the prior authorization of the customers. The complaint

also alleges that Adams created and transmitted falsified and unauthorized requests to his member firm's clearing firm for \$18,016 to be transferred from his member firm's error account and credited to the accounts of public customers for the incurred losses that resulted from Adams' unauthorized trades in their accounts. In addition, the complaint alleges that Adams exercised discretion in effecting the sale and purchase of stocks in the account of a public customer without obtaining the discretionary authority in writing from the customer, and without having the account accepted as a discretionary account by his member firm. (NASD Case #C07020058)

Michael Baldo a/k/a Miguel Baldo Lozano (CRD #2620455, Registered Representative, Long Island City, New York) was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in the accounts of public customers without their prior knowledge, authorization, or consent. (NASD Case #C10020062)

Mathieu Siddhartha Chamberlain (CRD #2292343, Registered Representative, New York, New York) was named a respondent in an NASD complaint alleging that he opened an account at his member firm in the name of a public customer and executed the purchase of stocks without the customer's prior knowledge, authorization, or consent. The complaint also alleges that Chamberlain executed discretion in the accounts of public customers pursuant to a customer's verbal authorization without consulting the customer before each transaction, without having obtained prior written authorization from the customer, and without having obtained his member firm's prior written acceptance of the account as discretionary. In addition, the complaint alleges that Chamberlain exceeded his authority in the accounts of public customers and executed the sale of stocks without the customers' knowledge, authorization, or consent. (NASD Case #C10020067)

Cybervest Securities, Inc. (CRD #40767, Ft. Lauderdale, Florida), William Pang Chien (CRD #2251029, Registered Principal, Plantation, Florida), Michael Chien (CRD #3066470, Registered Principal, Sunrise, Florida), and Scott Keith Kaplan (CRD #2908394, Registered Representative, Brooklyn, New York) were named as respondents in an NASD complaint alleging that the firm, William Chien, Michael Chien, and Kaplan engaged in an unregistered distribution of common stock. The complaint also alleges that the firm, acting through the Chiens, by use of the instrumentalities of interstate commerce or the mails, intentionally or recklessly employed devices to defraud public customers by making untrue statements of material facts or omitting to state material facts necessary to make the statements, in light of the circumstances in which they were made, not misleading. Specifically, the complaint alleges that the firm, at the direction of the Chiens, provided to public customers an overview and/or private placement memorandum that contained material misrepresentations and omissions of facts.

In addition, the complaint alleges that Kaplan, in connection with the sale of common stock, by use of the instrumentalities of interstate commerce or the mails, intentionally or recklessly employed devices to defraud public customers by making untrue statements of material facts or omitting to state material facts necessary to make the statements, in light of the circumstances in which they were made, not misleading. Specifically, the complaint alleges that Kaplan told public customers that they were directly or indirectly buying shares of NASDAQ; that NASDAQ was going to engage in an IPO within a short period of time; and failed to disclose the conflicts of interest between the common stock and his member firm, the lack of secondary market for the stock, the limited operating history of many of the target companies, and specific industry risk factors for the target companies. In addition, the complaint alleges that Kaplan made price predictions to customers without a reasonable basis. Moreover, the complaint alleges that Michael Chien failed to properly qualify and register as a general principal, and the firm and William Chien delegated to Michael Chien supervisory responsibilities for a branch office when he was not qualified or registered as a general principal.

Furthermore, the complaint alleges that the firm allowed Kaplan to conduct a securities business that required registration when he was not registered and permitted a statutorily disqualified individual to associate with the firm and work in a branch office and the firm's main office. The complaint also alleges that the firm, acting through William Chien, failed to establish, maintain, and enforce written supervisory procedures and systems to supervise the activities of registered representatives and associated persons reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules. In addition, the complaint alleges that Michael Chien became aware of "red flags" indicating that salespersons might have been misrepresenting a stock offering and failed to take adequate steps to investigate whether salespersons were engaging in sales practice violations. The complaint also alleges that the firm allowed a branch office supervisor to fail to take steps to supervise the sales practices of registered persons at the branch office. Furthermore, the complaint alleges that the Chiens failed to maintain a file or records of Web sites for the firm and the common stock that included the persons who prepared and approved of their use, the dates the Web sites were activated, and the dates the Web sites were materially revised. (NASD Case #CAF020024)

Stephen Jay Drescher (CRD #2619465, Registered Principal, Remsenburg, New York) was named as a respondent in an NASD complaint alleging that he agreed in advance to artificially manipulate the market price and demand for securities involved in IPOs as soon as aftermarket trading began by engaging in unlawful schemes designed to allow others, including other brokerage firms, and his member firm to profit from aftermarket sales of securities in the IPOs while concealing their beneficial ownership and control over substantial quantities of such securities. The complaint also alleges that Drescher and others

entered into secret, undisclosed arrangements, including sham "lock-up" agreements and undisclosed agreements, to purchase securities from bridge lenders and other insiders affiliated with the issuers, which allowed his member firm and others to obtain substantial quantities of securities at below-market prices once aftermarket trading began.

The complaint further alleges that Drescher and his co-conspirators, directly or indirectly, by the use of any means or instrumentalities of interstate commerce or the mails, or of any facility of any national securities exchange, employed artifices, devices, or schemes to defraud; made untrue statements of material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in acts, practices, or courses of business that operated or would operate as a fraud or deceit upon persons in connection with the purchase of securities. Moreover, the complaint alleges that Drescher and others unlawfully, willfully, and knowingly devised and intended to devise a scheme and artifice to defraud; and, to obtain money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit by means of wire communication in interstate and foreign commerce, signs, signals, and sounds.

(NASD Case #CAF020029)

Todd Mitchell Eberhard (CRD #1636538, Registered Principal, New York, New York) was named as a respondent in an NASD complaint alleging that he settled customer complaints away from his member firms without the knowledge and consent of the firms and failed to report settlements in excess of \$15,000 to his member firm. The complaint also alleges that Eberhard included improper confidentiality provisions in settlement agreements with public customers that effectively prohibited the customers from disclosing the underlying facts of their complaints and the settlement terms to NASD. The complaint further alleges that Eberhard willfully failed to disclose and/or misrepresent, amend, and timely amend his Forms U-4 to disclose material information. In addition, the complaint alleges that Eberhard effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent. The complaint further alleges that Eberhard exercised discretion in the accounts of public customers without having written agreements with the customers authorizing Eberhard to exercise discretion and without having obtained his member firm's prior written acceptance of the accounts as discretionary.

The NASD complaint also alleges that Eberhard, in connection with the purchase, sale, and/or offer of mutual fund shares, directly or indirectly, by the use of any means or instrumentalities of interstate commerce or the mails, or of any facility of any national securities exchange, employed artifices, devices, or schemes to defraud; made untrue statements of material fact or omitted to state a material fact necessary in order to make the statements made, in light of the

circumstances under which they were made, not misleading; engaged in acts, practices, or courses of business that operated or would operate as a fraud or deceit; and/or effected transactions in, or induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices or contrivances. Moreover, the complaint alleges that Eberhard failed to disclose material information to public customers in connection with the purchase and sales of mutual funds, purchased mutual fund shares that deprived the customers of volume discounts available, and/or deprived the customers of the lower and shorter-term contingent deferred sales charges that had the effect of increasing Eberhard's commission revenue. The complaint also alleges that Eberhard employed a pattern of short-term trading of mutual funds and effected transactions in the accounts of public customers without having reasonable grounds for believing the transactions were suitable for the customers on the basis of their financial situations and needs. Furthermore, the complaint alleges that Eberhard intentionally created false account statements with inflated valuations to induce a public customer to maintain accounts with him. In addition, the complaint alleges that Eberhard provided false, misleading and/or evasive testimony during an on-the-record interview with NASD. (NASD Case #C10020072)

Theodora Kenneybrew (CRD #2660317, Registered Representative, Chino, California) was named as a respondent in an NASD complaint alleging that she received \$75,474.73 in checks for investment purposes, failed and neglected to invest the funds as instructed, and, instead, without the knowledge or consent of the customers, endorsed and deposited the checks into a bank account over which she had control and used the funds for her own personal benefit or for some purpose other than the benefit of the customers. The complaint also alleges that Kenneybrew, without her member firm's knowledge or consent, authored and signed, under the name of a fictitious person (a purported firm supervisor), a letter on firm letterhead through which she misrepresented to a public customer that a back office error had resulted in her deposit being credited to another customer's account and that the error was being corrected. In addition, the complaint alleges that Kennybrew misrepresented that the customer's next monthly statement would accurately reflect the deposit with interest. (NASD Case #C02020041)

Jon Kwan Lee (CRD #2538075, Registered Principal, Bayside, New York) was named as a respondent in an NASD complaint alleging that he created and supported a procedure at his member firm to improperly delay customers' ability to transfer their securities holdings or monies to another broker/dealer via the Automated Account Transfer Service (ACATS) process. Specifically, the complaint alleges that Lee directed the change of customer account numbers and the transfer of securities positions and money balances into the newly created accounts, without customer authorization for the purpose of delaying customer ACATS requests. (NASD Case #C3A020032)

Jerry Stephen Lund (CRD #2201043, Registered Representative, Longmont, Colorado) was named as a respondent in an NASD complaint alleging that he caused the execution of sell transactions in the account of public customers when he knew, or should have known, that the transactions were unauthorized in that he knew, or should have known, that his authorization to effect transactions in the customers' accounts had been revoked, and that the transactions were inconsistent with the stated intentions of the customers. (NASD Case #C3A020036)

Thomas Michael Rossi (CRD #2333282, Registered Representative, Bayside, New York) was named as a respondent in an NASD complaint alleging that he entered unauthorized trades in the accounts of public customers. In addition, the complaint alleges that Rossi failed to preserve the books and records of his member firm in a readily accessible place pursuant to SEC Rule 17a-4, and failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C3A020031)

Firms Suspended for Failure to Supply Financial Information

The following firms were suspended from membership in NASD for failure to comply with formal written requests to submit financial information to NASD. The action was based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

Blackwood Securities, LLC
New York, New York
(July 15, 2002)

Growthstocks.Com
Richardson, Texas
(July 15, 2002)

Suspension Lifted

NASD has lifted the suspension from membership on the date shown for the following firm because it has complied with formal written requests to submit financial information.

Fieldstone Services Corp.
New York, New York
(July 19, 2002)

Firms Expelled for Failing to Pay Fines and/or Costs in Accordance With NASD Rule 8320

C.B. Hill & Associates Inc.
Jacksonville, Florida
(July 31, 2002)

Fletcher and Faraday, Inc.
Hempstead, New York
(July 31, 2002)

Growthstocks.com
Richardson, Texas
(July 31, 2002)

Key Star Securities, Inc.
Indianapolis, Indiana
(July 31, 2002)

LCP Capital Corp.
Staten Island, New York
(July 31, 2002)

New World Securities, Inc.
Garden City, New York
(July 31, 2002)

Individuals Barred Pursuant to NASD Rule 9544 for Failure to Provide Information Requested Under NASD Rule 8210. (The date the bar became effective is listed after the entry.)

Branstetter, Todd Robert
Boca Raton, Florida
(July 17, 2002)

Elmore, Dwann S.
San Diego, California
(July 17, 2002)

Frain, Michael W.
St. Louis, Missouri
(July 17, 2002)

Hentschel, III, Frederick J.
Manhasset, New York
(July 16, 2002)

Macaluso, Susan
McAllen Texas
(July 11, 2002)

Marcotte, Lori M.
Jefferson, Louisiana
(July 16, 2002)

Pierre, Petruce
Spring Valley, New York
(June 28, 2002)

Russo, Thomas A.
Staten Island, New York
(July 17, 2002)

Tirovolas, Dimos S.
Lindenhurst, New York
(July 15, 2002)

Individuals Suspended Pursuant to NASD Rule 9541(b) for Failure to Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)

Beaucond, III, Charles A.
Kapolei, Hawaii
(July 10, 2002)

Fiscus, Johnny Joe
Plymouth, Indianapolis
(July 11, 2002)

Harris, Michael O., W.
Los Angeles, California
(July 22, 2002)

Hernandez, Ulisses R.
Queens, New York
(July 12, 2002)

Karahalios, Perry P.
Des Plaines, Illinois
(June 28, 2002)

Kimes, Kody Frederick
Cottage Grove, Oregon
(July 24, 2002)

Lee, Jon Kwan
Bayside, New York
(July 5, 2002)

McCarthy, Edward P.
Chicago, Illinois
(July 12, 2002)

Merced, Carlos E.
Victorville, California
(July 5, 2002)

Silverberg, Jay Steven
Los Angeles, California
(July 30, 2002)

Stapleton, Bill L.
Weilerbach, Germany
(July 11, 2002)

Visbal, Michael A.
Pacific Palisades, California
(July 5, 2002)

Individual Suspended Pursuant to NASD Rule Series 9510 for Failure to Comply With an Arbitration Award or a Settlement Agreement

The date the registration was suspended is included after the entry. If the individual has complied, the listing also includes the date the suspension was lifted.

Leahy, Curtis Franklin
Costa Mesa, California
(July 8, 2002)

Individuals Whose Registrations Were Revoked for Failing to Pay Fines and/or Costs in Accordance With NASD Rule 8320

Barres, Philip F.
Old Westbury, New York
(July 31, 2002)

Bronfman, Jeffrey
Aventura, Florida
(July 31, 2002)

Cole, Jr., Terry P.
Indianapolis, Indiana
(July 31, 2002)

DeCarlo, Anthony F.
Woodbridge, New Jersey
(July 31, 2002)

DiGiacomo, John Philip
New York, New York
(July 31, 2002)

Halverson, James D.
Las Vegas, Nevada
(July 31, 2002)

Jawitz, Michael B.
Hallandale Beach, Florida
(July 31, 2002)

Kapoor, Avinash
Dallas, Texas
(July 31, 2002)

Malagon, George H.
Fresh Meadow, New York
(July 31, 2002)

Margiotta, John J.
Larchmont, New York
(July 31, 2002)

McDonough, John M.
Las Vegas, Nevada
(July 31, 2002)

Sapir, Yury
Staten Island, New York
(July 31, 2002)

Smith, Kevin M.
New York, New York
(July 31, 2002)

Socci, Anthony S.
Trumbull, Connecticut
(July 31, 2002)

Stern, Ira S.
Columbus, Ohio
(July 31, 2002)

VonFeldt, DeWayne R.
Oklahoma City, Oklahoma
(July 31, 2002)

Vu, Tanya N.
Houston, Texas
(July 31, 2002)

NASD Fines and Suspends Two CSFB Execs for Failing to Prevent IPO Profit Sharing Paybacks

NASD fined and suspended two Credit Suisse First Boston (CSFB) executives for failing to supervise and prevent the firm from receiving excessive commissions in exchange for allocations of "hot" IPOs. J. Anthony Ehinger, Global Head of Equity Sales, and George W. Coleman, the firm's Institutional Listed Sales Trading Head, were fined \$200,000 each, and both were suspended for 60 days—30 days in all capacities and 30 days as supervisors.

This case is related to the January 2002 enforcement actions in which NASD and the SEC fined CSFB \$100 million for extracting tens of millions of dollars from customers in inflated commissions that amounted to a "profit sharing" arrangement for allocations of "hot" IPOs (www.nasdr.com/news/pr2002/release_02_005.html). NASD determined that CSFB's IPO profit sharing practice was widespread, affecting more than 300 accounts serviced by the firm's Institutional Sales Trading Desk,

its Private Client Services (PCS) Group and its PCS Technology Group. Ehinger supervised all three units and Coleman, who reported to Ehinger, supervised the Institutional Listed Sales Trading Desk.

Separately, NASD also suspended four former CSFB employees for one year and fined them \$30,000 each for failing to provide NASD with timely testimony in this matter. They are Scott M. Brown, Richard Scott Bushley, Michael S. Grunwald, and John E. Schmidt. All of these individuals were employed in the firm's PCS Technology Group in San Francisco.

In this action against Ehinger and Coleman, NASD found that the departments under their supervision executed thousands of transactions with excessive commissions, influenced CSFB's IPO allocations to customers who paid excessive commissions, and developed reports tracking both the amount of commissions paid by customers and as well as their IPO profits. Ehinger and Coleman created a tracking document they called the New Issue Performance Report (NIPR) to track the commissions paid by certain accounts, and the profit that each such account would have made if it sold its IPO shares on certain dates. Using this report, Ehinger and Coleman and some of their subordinates encouraged customers to increase their commission payments if they believed the customers' IPO profits were too high in relation to the commissions paid to the firm. Ehinger and Coleman both discussed with their subordinates their goal to have certain accounts pay commissions amounting to as much as one-third of their profits. They also discussed ratios of profits to commissions with CSFB's Syndicate Desk in connection with efforts to increase commission revenue and to influence IPO allocation decisions.

Although Ehinger and Coleman communicated with CSFB's Legal and Compliance Department about whether, in general, high commissions could be accepted by CSFB, Legal and Compliance was not informed of the magnitude and scope of excessive commission rates being paid to the firm, or the existence of the NIPR. While Ehinger's and Coleman's contacts with the department are a mitigating factor, those contacts were insufficient to discharge their supervisory responsibilities.

In settling these matters, all respondents neither admitted nor denied the allegations.

NASD acknowledges the assistance and cooperation of the SEC's Northeast Regional Office in this matter.